

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THOMAS CAFARO,	)	
	)	
Plaintiff,	)	Civil Action No. 05-0032
	)	Judge Joy Flowers Conti/
vs.	)	Magistrate Judge Sensenich
	)	
HIGHMARK, INC., T. JEFF	)	
ALLSHOUSE, and DEL GEALY,	)	Re: Doc. #38
	)	
Defendants.	)	

ORDER

On January 21, 2005, this case was referred to United States Magistrate Judge Ila Jeanne Sensenich for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation filed on March 16, 2006, that Defendants' Partial Motion to Dismiss (Doc. # 38) for failure to state a claim filed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure be granted and that Count I be dismissed and Counts II and III be dismissed as to Defendants T. Jeff Allshouse and Del Gealy.

The parties were allowed (10) days from the date of service to file objections. Service was made on all parties. No objections have been filed to the Report and Recommendation.

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation, and

objections thereto, the following order is entered:

AND NOW, this 11th day of April, 2006;

IT IS HEREBY ORDERED that Defendants' Partial Motion to Dismiss (Doc. # 38) for failure to state a claim filed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure be granted and that Count I be dismissed and Counts II and III be dismissed as to Defendants T. Jeff Allshouse and Del Gealy;

IT IS FURTHER ORDERED that the case shall be dismissed as to Defendants Allhouse and Gealy, and only Counts II and III shall remain against Defendant Highmark.

The Report and Recommendation of Magistrate Judge Sensenich, dated March 16, 2006, is adopted as the opinion of the Court.

/s/ Joy Flowers Conti  
JOY FLOWERS CONTI  
United States District Judge

cc: **Electronically:**

Ila Jeanne Sensenich  
United States Magistrate Judge

Abigail D. Flynn-Kozara, Esquire  
Martha Hartle Munsch, Esquire  
Reed Smith  
435 Sixth Avenue  
Pittsburgh, PA 15219-1886

**By U.S. Mail:**  
Thomas Cafaro  
1422 Bristol Drive  
South Park, PA 15129